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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,828	07/25/2001	Dara Ung	20-484	6307

7590 11/17/2004

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EXAMINER

BARNIE, REXFORD N

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DT

Office Action Summary

Application No.

09/911,828

Applicant(s)

UNG ET AL.

Examiner

REXFORD N BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by PRIOR ART

Regarding claim 1, The Prior Art teaches the claimed subject matter in (see page 4 line 19-31 of applicant's disclosure) in light of page 4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over PRIOR ART in view of Hudson (US Pat# 6,249,573) or Laybourn et al. (US Pat# 6,480,710).

Regarding claim 2-3, The PRIOR ART fails to teach using an updated rate when debiting an account during usage which would translate to available time balance based on rate. Hudson teaches a method of time to talk calculation wherein an updated charge rate can be used to determine amount of time associated with one's prepaid in a given time period in (see disclosure).

Laybourn et al. teaches a system and method for managing prepaid wireless service in (see col. 1 line 50-col. 2 line 3, col. 3 lines 6-18, col. 6) wherein a prepaid account can be debited on updated rate information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Laybourn or Hudson into that of Prior art thus making it possible to provide competitive rates to user at certain times to attract customers and from the point of a service provider controlling usage rates based on factors such as holidays, traffic and so forth.

Regarding claim 4, The PRIOR ART fails to teach using an updated rate when debiting an account during usage which would translate to available time balance based on rate. Hudson teaches a method of time to talk calculation wherein an updated charge rate can be used to determine amount of time associated with one's prepaid in a given time period in (see disclosure).

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Laybourn et al. teaches a system and method for managing prepaid wireless service in (see col. 1 line 50-col. 2 line 3, col. 3 lines 6-18, col. 6) wherein a prepaid account can be debited on updated rate information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Laybourn or Hudson into that of Prior art thus making it possible to provide competitive rates to user at certain times to attract customers and from the point of a service provider controlling usage rates based on factors such as holidays, traffic and so forth.

Response to Arguments

Applicant's arguments filed on 07/21/2004 have been fully considered but they are not persuasive.

The applicant's argument in regard to claim 1 concerning the fact that the prior art of record fails to teach a total time by using a plurality of rates for a plurality of replenishments. The examiner disagrees because the total number of minutes derived for an account would be based on the monetary value of the accounts and the various rates using one active and then subsequently using a second rate in (see page 4) even if we assume that the first replenishment amount is depleted. Furthermore, the claimed does not detail how the total minutes would be derived

The applicant argued that the prior art of record including Hudson or Laybourn fails to teach the claimed subject matter including a plurality of replenishments having at least two different rate plans.

The applicant has attacked the references individually when the explanation as set forth in the rejection of the claimed subject matter was based on a combination of references. The examiner position is that being able to update amount of time based on different rate plans is known as shown by Hudson wherein a prepaid account total time available would be adjusted based on the different rate information (rate plans) associated with the account as used and would have been obvious to implement such a teaching. Furthermore, it's known to be able to debit an account (prepaid) based on calling rate information or data during the time of the call which could be different on several occasions.

Allowable Subject Matter

Claims 5-8 are allowed for the reasons set forth in the applicant's disclosure including that of (page 10 of applicant's disclosure).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
11/15/2004


REXFORD BARNIE
PRIMARY EXAMINER